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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046058
Party	Plaintiff MASIMO CORPORATION
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Submission	Motion to Suspend for Settlement Discussions
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Signature	/Stacey R. Halpern/
Date	02/03/2009
Attachments	2009-02-03 Motion to Suspend Proceeding MASIMOT-068CN-320CN.pdf (3 pages)(81989 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**


Masimo Corporation,
Opposer,
v.
Medtronic, Inc.,
Applicant.

Medtronic, Inc.,
Counter-Claim Petitioner,
v.
Masimo Corporation,
Counter-Claim Respondent.

Cancellation Nos.: 92,046,058 and 92,046,064

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office through their website located at <http://esta.uspto.gov> on:

February 3, 2009
(Date)


Stacey R. Halpern

**STIPULATED MOTION TO SUSPEND CONSOLIDATED
CANCELLATION PROCEEDING**

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Pursuant to T.B.M.P. § 510.02(a), 37 CFR §2.117 (a) Opposer/Counter-Claim Respondent, Masimo Corporation (“Masimo”) hereby moves the Trademark Trial and Appeal Board (the “Board”) to suspend the above-referenced opposition pending the parties’ continued settlement discussions.

On November 17, 2008, the Board suspended the above-referenced consolidated U.S. cancellation proceedings pending the parties' settlement discussions. In the November 17, 2008 Order,

the Board noted that any further requests for a suspension must include a detailed report regarding the settlement discussions.

Masimo submits that multiple draft settlement agreements have been exchanged by the parties and that a revised draft agreement was recently sent to Masimo's counsel. Masimo is currently reviewing the revised draft agreement. As the parties are attempting to resolve their rights to various marks and on a worldwide basis, the settlement negotiations have taken considerable time. Moreover, Applicant/Counter-Claim Petitioner has also brought a counter-claim against one of Masimo's registrations.

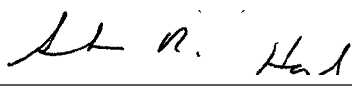
Although the parties still have several issues to resolve, Masimo believes this matter can be resolved during the next six (6) months. As the suspension of this opposition will likely save the Board's time and resources as well as the parties' time and resources, this suspension is sought for good cause and not for purposes of delay. Applicant/Counter-Claim Petitioner's counsel provided his consent to this suspension via electronic mail on January 28, 2009.

In light of the foregoing, Masimo respectfully requests that the Board continue the suspension of the consolidated proceedings.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 3, 2009

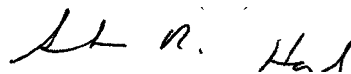
By: 

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Attorneys for Masimo Corporation

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **STIPULATED MOTION TO SUSPEND CONSOLIDATED CANCELLATION PROCEEDING** upon Applicant/Counter-Claim Petitioner's counsel by depositing one copy thereof in the United States Mail on February 3, 2009, addressed as follows:

Dean R. Karau
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

A handwritten signature in black ink, appearing to read "Stacey R. Halpern", is written above a horizontal line.

Stacey R. Halpern

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